United Nations A/HRC/WG.6/19/BTN/3

General Assembly

Distr.: General
7 February 2014

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Nineteenth session
28 April -9 May 2014

Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Bhutan*

The present report is a summary of 5 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

I. Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

1. Christian Solidarity Worldwide (CSW) noted that Bhutan, during its previous Universal Period Review (UPR), received several recommendations that it should ratify additional conventions, which Bhutan indicated that it was actively considering.[2] Alliance Defending Freedom (ADF) recommended that Bhutan ratify or accede to all core international human rights instruments such as the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights and the Convention against Torture,[3] with CSW also recommending the specific ratification of the International Convention on the Elimination of All Forms of Racial Discrimination.[4]

2. Constitutional and legislative framework

2. ADF commented that, since the first UPR of Bhutan held on 4 December 2009, Bhutan had made progress as a new democratic republic securing for its citizens in greater measure certain freedoms and rights. Additionally, Article 7 of the Constitution recognized, among others, the Fundamental Rights of Bhutanese citizens.[5] However, in spite of those constitutional protections and international commitments, Bhutan had enacted several laws which restricted the fundamental rights of its citizens, especially the freedom of association, right to equality, right to privacy and the freedom of religion or belief of individuals.[6]

B. Cooperation with human rights mechanisms

3. CSW highlighted that: Bhutan during its previous UPR, received recommendations to accept a request for a visit by the UN Special Rapporteur on freedom of religion or belief, which had been awaiting a response since 2006; and that Bhutan had indicated its commitment to constructive engagement with UN human rights mechanisms, but had taken no action to invite the Special Rapporteur.[7] ADF recommended that Bhutan accept visits from United Nations Special Rapporteurs, and in particular accept the request made by the Special Rapporteur on freedom of religion or belief to visit the country.[8]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Right to life, liberty and security of the person

4. According to the Global Initiative to End All Corporal Punishment of Children (GIEACPC), corporal punishment was permitted in the home, schools and alternative care settings.[9]

5. GIEACPC further indicated that the prohibition of corporal punishment at home was included in a recommendation to Bhutan during its review under the first cycle of the UPR in 2009.[10] According to GIEACPC, the Government did not categorically accept or reject the recommendation but stated that existing legislation adequately addressed corporal punishment in the home, that the Child Care and Protection Bill would strengthen this, and that no new legislation on corporal punishment was being considered.[11]

6. GIEACPC expressed the hope that the Working Group would note with concern the legality of corporal punishment in Bhutan; and that States would make a specific recommendation that legislation be enacted in Bhutan to explicitly prohibit corporal punishment of children in all settings, including the home, as a matter of priority.[12]

2. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

7. CSW stated that the domestic legislative framework governing the right to freedom of religion or belief was established primarily in the Constitution of 2008, particularly its articles 3 and 7, the Penal Code of 2004 (amended in 2011), and the Religious Organizations Act of Bhutan, enacted in 2007, which set up a system for the registration and administration of religious organisations.[13]

8. CSW and ADF reported that measures restricting religious conversions raised a number of human rights concerns.[14] CSW reported that arising from article 7(4) of the Constitution were additional measures which limited the right to manifest a religion or belief in the area of conversion. Article 5 of the Religious Organizations Act of Bhutan stipulated the responsibilities incumbent on registered religious organisations. Those responsibilities included that no religious organisation should "Compel any person to belong to another faith, by providing reward or inducement for a person to belong to another faith" (5(g)). CSW further noted that the Penal Code (Amendment) Act of Bhutan 2011 introduced a new section 463A, which stated that "A defendant shall be guilty of the offence of compelling others to belong to a new faith if the defendant uses coercion or other forms of inducement to cause the conversion of a person from one religion or faith to another". This was punishable by up to three years in prison.[15]

9. CSW pointed out that the lack of clear definitions of terms such as "inducement" placed legitimate and peaceful religious activities at risk of legal sanction. This applied to religious teaching, charitable services, education, or any activities which involved the possibility of conversions occurring. The law in Bhutan should make a clearer distinction between which activities were and were not permissible in the context of propagating religion.[16] Generalised restrictions relating to conversions also risked promoting negative attitudes towards legitimate activities and those carrying out such activities. This allegedly contributed to the marginalisation of the Christian community, which had also experienced opposition from local officials in rural areas of the country, and had contributed to a perception among many Christians that they did not enjoy the right to freedom of religion or belief in Bhutan.[17]

10. ADF added that the potential for misuse and arbitrary action due to vague terminology had been witnessed in instances of violence and arbitrary action against the minority Christian community in the nation of Bhutan.[18] ADF recommended that Bhutan take all necessary action to promote and ensure freedom of religion or belief for individuals of all faiths by repealing relevant provisions in the constitution and the penal code which restricted the religious freedom of citizens of Bhutan.[19]

11. CSW further recommended that Bhutan should amend the measures against compelling others to change their religion in article 7(4) of the Constitution, article 5(g) of the Religious Organizations Act, and section 463A of the Penal Code, to ensure that any limitations on the right to freedom of religion or belief were consistent with the limitations provided in article 18(3) of the ICCPR. Bhutan should take into account the commentary by the UN Special Rapporteur on freedom of religion or belief on that issue.[20]

12. With regard to granting legal personality to religious organisations, CSW stated that both the text of the Religious Organizations Act of Bhutan and the manner of its

implementation were discriminatory against any groups which were neither Buddhist nor Hindu.[21]

13. CSW explained that the Religious Organizations Act established a regulatory authority, the *Choedhey Lhentshog*, and defined organisations eligible for registration to include a range of named Buddhist and Hindu organisations "or any other religious institutions as recognized by the *Choedey Lhentshog*" (article 3). However, the principles established in the Act which would guide the *Choedey Lhentshog* in that regard were deeply oriented towards strengthening the "spiritual heritage of Bhutan", defined in article 3 of the Constitution as Buddhism. Article 3 of the Religious Organizations Act specified that the purpose and objectives of eligible religious organisations must be "solely for the benefit of religious institutions and the spiritual heritage of Bhutan". Article 4 stated the objectives of the Act, included first "to benefit the religious institutions and protect the spiritual heritage of Bhutan" (article 4(a)). Article 5(f) specified that no eligible religious organisation might "violate the spiritual heritage of Bhutan as expressed in article 3 of the Constitution". The first function of the *Choedey Lhentshog* was to "Endeavour to promote religious harmony and strengthen the spiritual heritage of Bhutan" (article 12(a)), and it was mandated to "Ensure that religious institutions and personalities promote the spiritual heritage of the country".[22]

14. According to CSW, this framework allegedly made it difficult to envisage any non-Buddhist and non-Hindu groups being granted recognition as a religious organisation.[23] ADF indicated that the Act gravely restricted religious freedom especially of the Christian minority community, while protecting and promoting other religious traditions (Buddhist or Hindu), thereby violating the constitutional guarantees of the right to equality.[24]

15. CSW reported that, to date, the *Choedey Lhentshog* had registered sixteen organisations. Fifteen were Buddhist organisations; the other was the Hindu Dharma Samudaya, a Hindu umbrella body (although there were claims this body was not seen to represent all Hindus in the country, particularly those of a "low" caste background).[25]

16. CSW further stated that although a number of Christian organisations operated in Bhutan, none of them had been registered by the *Choedey Lhentshog*. Several Christian groups had allegedly approached the government, but reported having been rebuffed and receiving mixed messages about whether or not they were even eligible to apply for registration.[26]

17. Additionally, CSW recommended that Bhutan should ensure the equal treatment of all religious communities existing in the country. In particular, Bhutan should clarify the eligibility of non-Buddhist and non-Hindu groups to obtain registration under the Religious Organizations Act of Bhutan, and should seek to expedite the registration of all peaceful religious groups in the country which sought this status, providing adequate support to any groups seeking assistance in the process of registration.[27]

18. CSW stated that as a consequence of lacking legal personality under the Religious Organizations Act, Christian groups operated in a legally ambiguous environment. There had been reports of informal church meetings being closed down by local officials in rural areas.[28] Additionally, ADF referred to reports that local authorities told Christians that it was illegal to gather for worship on Sundays, and that they needed permission from a higher authority for such gatherings despite the constitutional guarantee to freedom of religion under Article 7. CSW further reported that, due to this discriminatory practice, religious groups other than Hindus and Buddhists, especially Christians, were reportedly unable to observe certain religious practices including observing traditional practices such as burying their dead in spite of making repeated requests to the Government for the allotment of burial land.[29] CSW additionally reported that Christians were unable to

conduct funeral rituals openly in accordance with their beliefs, and consequently often carried out internments illegally in the forests.[30]

19. ADF recommended that Bhutan make suitable amendments to the Religious Organizations Act of 2007 to ensure that all persons, religious denominations and institutions were able to freely associate and practice their religious beliefs.[31] CSW further recommended that Bhutan should ensure that local officials were given clear guidance on the right to freedom of religion or belief, and that religious groups were able to gather without harassment.[32] Additionally, CSW recommended that Bhutan should provide burial ground to the Christian community, in order for them to carry out funeral rituals in accordance with their religious convictions.[33]

3. Right to education

20. CSW alleged that public education for children involved compulsory Buddhist acts of worship, and that Christian children had been compelled to engage in worship against their will and that of their parents. CSW recommended that Bhutan should foster an environment in schools whereby children belonging to minority religions are treated equally and fairly. It also recommended that Bhutan should also provide education to children about different religions, reflecting the diversity which exists in the country.[34]

4. Minorities

21. Society of Threatened Peoples (STP) reported that the Royal Government of Bhutan had encouraged a policy of "One Nation One People" in 1989 that required all the different ethnic groups to accept the language, culture, social norms and dress of the Ngalong Buddhist elite. The Nepali language was allegedly prohibited in schools, and Hindu media institutes or seminaries, which taught the Sanskrit scriptures, were closed.[35]

5. Migrants, refugees and asylum seekers

22. Lutheran World Federation (LWF) referred to Bhutan's reported expulsion of one-sixth of its population and Bhutan's subsequent failure to allow them to return or to grant them compensation for the forcible deprivation of their property.[36]

23. LWF stated that, in the more than 20 years since the expulsion of the Bhutanese refugees, to date not a single Bhutanese refugee had been allowed to return home to Bhutan. This was despite extensive rounds of negotiations involving Bhutan, a neighbouring country, and UNHCR, and despite the recommendations made to Bhutan in the first cycle of the UPR.[37]

24. LWF alleged that between late 1990 and 1992, the Government of Bhutan engaged in a programme of oppression and forcible eviction that targeted the Nepali-speaking minority living in the southern part of Bhutan.[38] According to STP, that discriminatory policy was based on the controversial Bhutanese Citizenship Act of 1985 and a nationwide census in Bhutan in 1988. The census confirmed that some 43% of the total population was Lhotshampa.[39] LWF explained that Bhutanese of Nepali origin were called Lhotsampas, or Southern Bhutanese.[40] With STP adding that the Buddhist Ngalong and the Hindu Lhotshampa had coexisted for decades in peace.[41] STP alleged that shortly after the publication of the results of the census Bhutanese security forces moved through southern Bhutan and forced the Lhotshampa to abandon their homes and to seek protection in neighbouring countries. Many minority people were allegedly forced by Bhutanese authorities to sign "Voluntary Migration Forms" to formally accept their expulsion.[42] STP further stated that people were only recognized as citizens if they could prove that their mother and father had already been citizens, and if they could provide tax receipts from

before 1958. All others were forced to leave Bhutan within four days. Since then, the Kingdom of Bhutan had neither re-admitted the exiles nor reformed the citizenship law.[43]

25. LWF reported that the Bhutanese refugees were settled into refugee camps in the southeastern area of a neighbouring country. Their numbers grew to more than 100,000.[44] STP stated that despite the fact that 75 per cent of those screened were found to be eligible to repatriate to Bhutan, they never were repatriated due to unacceptable conditions of the Bhutanese authorities. Therefore tens of thousands of refugees had allegedly been languishing for years in refugee camps in a neighbouring country before the UNHCR launched a massive resettlement programme to third countries.[45] LWF stated that, as of September 2013, UNHCR reported that more than 100,000 refugees had registered for resettlement and that more than 81,000 persons had been able to restart their lives in eight different resettlement countries.[46]

26. STP also expressed deep concerned at the high suicide rates among the thousands of refugees from Bhutan in a neighbouring country – and also among the thousands who had reached a third country from 2008 onwards.[47]

27. LWF proposed the following recommendations: Bhutan should begin to allow Bhutanese refugees to return to Bhutan in safety and dignity. First priority should go to the elderly (some of whom simply wanted to return to their homeland for their last days) and to close family members who were separated. Bhutan should provide compensation to those persons whose land and other property was seized by force or coercion in connection with the expulsion of the Southern Bhutanese in the early 1990s.[48]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.
Civil society
Individual submissions:

ADF	Alliance Defending Freedom, Scottsdale, Arizona, United States of America;
CSW	Christian Solidarity Worldwide, New Malden, United Kingdom of Great Britain and Northern Ireland (UK);
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, UK;
LWF	Lutheran World Federation, Geneva, Switzerland;
STP	Society for Threatened Peoples, Göttingen, Germany.

[2] CSW, para. 3.
[3] ADF, para. 18.
[4] CSW, para. 4.
[5] ADF, paras. 1-2.
[6] ADF, para. 3.
[7] CSW, para. 19.
[8] ADF, para. 21. See also CSW, para. 20.
[9] GIEACPC, paras. 2.1, 2.2, 2.3 and 2.6.
[10] GIEACPC, para. 1.1.
[11] GIEACPC, para. 1.2.
[12] GIEACPC, p.1.
[13] CSW, paras. 5, 6 and 7.
[14] CSW, para. 9 and ADF, paras. 11-14.
[15] CSW, para. 8.
[16] CSW, para. 11.
[17] CSW, para. 12.
[18] ADF, para. 15.
[19] ADF, para. 19.
[20] CSW, para. 17.
[21] CSW, para. 13.
[22] CSW, paras. 13-14.
[23] CSW, para. 14.
[24] ADF, para. 10.
[25] CSW, para. 15.
[26] CSW, para. 16.
[27] CSW, para. 18.
[28] CSW, para. 27.
[29] ADF, para. 5.
[30] CSW, para. 22.
[31] ADF, para. 20.
[32] CSW, para. 28.
[33] CSW, para. 24.
[34] CSW, paras. 23, 25-26.
[35] STP, p.1.
[36] LWF, point 1, introduction, p.1.
[37] LWF, p.1.
[38] LWF, p.1.
[39] STP, p.1.
[40] LWF, p.1.
[41] STP, p.1.
[42] STP, p.1.
[43] STP, p.1.
[44] LWF, p.1.
[45] STP, p.1.

[46] LWF, p.1.
[47] STP, pp.1-2.
[48] LWF, pp. 1-2.